

Instructions for Official Studies and Reports

Instructions concerning consequence assessment, submissions and review procedures in connection with official studies, regulations , propositions and reports to the Storting.

Laid down by Royal Decree of 24th June 2005.

FOREWORD

The purpose of these instructions is to ensure the proper preparation and administration of all work relating to official reforms, amendments to regulations and other measures. They shall contribute to ensuring cooperation and coordination in administrative procedures, high quality of the studies and an effective process of communication between the body submitting the matter and consultative bodies. These provisions are especially intended to ensure that financial, administrative and other significant consequences of reforms and measures are clarified. This is important in order to evaluate the cost to the government and the nation, and to prepare for the implementation of reforms in the best possible way.

The Instructions achieve this purpose in the following way:

- they make it mandatory to study financial, administrative and other significant consequences,
- they prescribe rules for the procedure to be followed in the preparatory stages of reforms and other measures, stressing the need for these preparations to be initiated and carried out within a realistic financial framework. The Instructions specify the institutions to which matters are to be submitted before and during the work process, and
- they contain provisions to ensure that the institution responsible for the matter assesses all relevant and significant consequences, and that the bodies affected and the general public are included in the decision-making process before a decision is made.

These Instructions are intended for use by ministries and their subordinate agencies and apply to all work on official studies, regulations, reforms and measures, as well as reports and propositions to the Storting. The Instructions form part of the Government's internal provisions and deviation may only be allowed pursuant to a special resolution, cf. subsection 1.3 of the Instructions.

These Instructions are not exhaustive when it comes to the mandatory submission of matters to the government administration. Separate circulars detail the provisions in some areas regarding the mandatory submission of matters to various ministries, often before the matter is circulated for general review.

Some ministries have issued guidelines for consequence assessment in their respective areas.

The Instructions do not regulate the submission of matters to the Government.

CONTENTS

Chapter 1 Introduction

- 1.1 Purpose
- 1.2 Scope
- 1.3 Deviations from the Instructions
- 1.4 Responsibility for the Instructions

Chapter 2 Consequence assessment - requirements and content

- 2.1 General
- 2.2 Preliminary assessment of financial, administrative and other significant consequences
- 2.3 Consequence assessment - content
 - 2.3.1 Financial and administrative consequences
 - 2.3.2 Other significant consequences

Chapter 3 Mandate

- 3.1 Formulation of the mandate

Chapter 4 Submission prior to general review

- 4.1 General
- 4.2 Submission of the preliminary assessment (submission before the study is initiated)
 - 4.2.1 Submission to the ministries
- 4.3 Submission to the ministries after the study has been completed but before circulation for general review

Chapter 5 General review

- 5.1 General
- 5.2 Period for review
- 5.3 Circulation of proposals from the European Commission
- 5.4 Exemptions
- 5.5 Repeating the review process

Chapter 6 Processing of ministry's draft reports and propositions to the Storting

- 6.1 Submission requirement
- 6.2 Response period
- 6.3 Specific amounts or other concrete information in reports to the Storting

Chapter 7 Laws and regulations

- 7.1 Drawing up bills and regulations
- 7.2 Submission to the Ministry of Justice
- 7.3 Legal review
- 7.4 Entry into force of laws and regulations
- 7.5 Publication of regulations
- 7.6 Information requirement in connection with new and amended laws and regulations

CHAPTER 1 INTRODUCTION

1.1 Purpose

The purpose of these Instructions is to ensure the proper preparation and administration of all work relating to official reforms, amendments to regulations and other measures. The Instructions shall ensure that the institution responsible for the matter assesses all relevant and significant consequences, and that the bodies affected and the general public are included in the decision making process before a decision is made.

1.2 Scope

These Instructions apply to all work on official studies, regulations, reforms and measures, and to propositions and reports to the Storting.

These Instructions apply to studies carried out by, or at the request of government bodies, i.e. ministries, directorates and other subordinate agencies.

These Instructions do not apply to provisional arrangements or matters relating to the Church of Norway (*cf.* Norwegian Constitution Articles 16 and 17) or to agreements between the central government and employers' and employees' organizations or to international agreements.

1.3 Deviations from the Instructions

Deviations from the rules in these Instructions may only be permitted when special circumstances make this necessary.

Any decision to deviate from these Instructions shall be made by the minister concerned. However, for deviation from subsection 5.2 (period for review) in matters for which the final decision shall be made by a subordinate agency, it is sufficient that the decision be made by the ministry concerned. Grounds are to be given for the decision, which is to be made in writing and shall be appended to the file.

1.4 Responsibility for the Instructions

The Ministry of Government Administration and Reform is responsible for interpreting these Instructions and providing information about them, and has the overall responsibility for general guidance and training. Individual ministries are responsible for ensuring that their own employees and those of subordinate agencies are familiar with these Instructions and that they are followed.

CHAPTER 2 CONSEQUENCE ASSESSMENT - REQUIREMENTS AND CONTENT

2.1 General

Each matter shall include a consequence assessment that shall consist of an analysis and evaluation of presumed significant consequences of the proposed decision. The consequence assessment shall evaluate the consequences for central government, counties and municipalities, and for private bodies, including commercial and industrial undertakings and individuals.

Consequences shall as far as possible be quantified. The combined effect of all the measures and responsibilities, etc. incumbent on those who will be affected by the proposals shall be described.

Uncertainty of future development and results in the area of matter and the kind of consequences and their strength should be assessed. The need for future evaluation of the proposed measures should also be assessed, including allowed time span before doing it, and kind of questions to be asked.

Alternative instruments shall be assessed, including instruments other than those of a regulatory nature, e.g. financial instruments. When laws and regulations are used as instruments, the need to prescribe a certain duration, or a certain period before evaluation is done, should be appraised.

The body that initiates a matter is responsible for carrying out the consequence assessment. The scope and content of the consequence assessment shall be adapted to the importance of the matter and the significance of its impact. The consequence assessment shall normally constitute a separate part (e.g. chapter, section) of the report and provide a brief overview of the most important consequences. Each ministry is responsible for information and guidance in their respective areas.

2.2 Preliminary assessment of financial, administrative and other significant consequences

When work on a matter commences, the expected financial, administrative and other significant consequences are to be assessed in advance, *cf.* subsection 4.2.

2.3 Consequence assessment - content

2.3.1 Financial and administrative consequences

An analysis and evaluation of the financial and administrative consequences shall always be included in the assessment.

Financial consequences must be assessed with a view to the impact on the income and expenditure of the parties affected, including central government, county and municipal budgets as well as the business sector and individuals. Thorough and realistic socioeconomic analyses shall, to the extent necessary, form part of this assessment. Should there exist any appreciable uncertainty regarding any of the elements included in the calculation, estimates must be made for both maximum and minimum cost-benefit alternatives, and an assessment must be made of how the effects of the measure are thought to be dependent on the uncertain factors.

Administrative consequences must be assessed with a view to the impact on the central government's centralized, regional and local administration, counties and municipalities as well as the impact of any changes on agency structure, new bodies, positions and other consequences that can result in significant changes with regard to responsibilities, administrative procedures or workload.

2.3.2 Other significant consequences

The consequences of a proposal shall be assessed in relation to all overriding or general considerations that may be of importance to the evaluation of whether the proposal shall be implemented. The consequence assessment shall include an evaluation of all considerations that are significant in the matter at hand.

In addition to financial and administrative consequences, other significant consequences shall be assessed. The consequences that are to be assessed must be evaluated in each case. The list below contains examples and is not exhaustive. In many cases it will be appropriate to evaluate consequences in the following areas:

- Environmental consequences. The assessment should be based on current environmental policy objectives and the fact that Norwegian nationals have the right to information about the effects of planned encroachments in nature pursuant to Article 110b of the Constitution.
- Consequences for the business sector. The obligation to describe financial consequences for the business sector follows from subsection 2.3.1. If a proposal has other consequences for the business sector, these must also be assessed.
- Regional consequences, partly against the background of regional policy objectives.
- Consequences for the health of the population.
- Consequences for gender equality, partly against the background of gender equality objectives.
- The relationship to human rights. Those carrying out the assessment shall evaluate and, when relevant, provide an account of whether human rights conventions set out requirements for the authorities in the area in question.
- Consequences in relation to the objective of simpler regulations and a less complex administration.

CHAPTER 3 MANDATE

3.1 Formulation of the mandate

The mandate shall establish that financial, administrative and other significant consequences of proposals shall be assessed in accordance with chapter 2.

As a general rule, at least one proposal in official studies shall be based on unchanged use of resources within the area concerned. The mandate shall include a directive to this effect. A separate assessment must be made as to whether a directive shall also be given to examine which measures it is possible to implement on the basis of a reduced use of resources within the area concerned.

The ministry concerned will assist insofar as it is necessary in providing the committee with qualified support to carry out the required assessment of consequences.

The mandate for official committees shall stipulate a realistic time limit for the committee's work. The duration of the time limit shall be adapted to the committee's work.

CHAPTER 4 SUBMISSION PRIOR TO GENERAL REVIEW

4.1 General

In the course of work on a matter which has financial, administrative or other significant consequences for the areas of other ministries, cf. subsections 2.3.1 and 2.3.2, the matter shall be submitted to the ministries involved, cf. subsections 4.2.1 and 4.3. The submission requirement may apply at two points of time in the process, notably:

- submission before a study is initiated, cf. subsection 4.2, and/or
- submission after the study has been completed but before circulation for general review, cf. subsection 4.2 below.

The response period in both cases shall be at least two weeks unless a different deadline has been agreed upon by the ministries involved.

In cases where work has been initiated, or the matter is being studied by a subordinate agency, the preliminary evaluation and consequence assessment shall be submitted to the ministry concerned, which will inform the other ministries affected by the matter. The ministry concerned is responsible for ensuring that submission takes place in accordance with these Instructions.

4.2 Submission of the preliminary assessment (submission before the study is initiated)

The preliminary assessment shall be submitted as early as possible. The preliminary assessment (including any draft mandate, cf. subsection 3.1) shall be submitted to the ministries mentioned below before a study is initiated.

4.2.1 Submission to the ministries

Depending on what the preliminary assessment reveals about the nature and scope of the consequences, the preliminary assessment and any mandate shall be submitted to the following ministries:

- a) The Ministry of Finance, should the preliminary assessment reveal that the matter may result in an increase in budget limits, any reduction in revenues, substantial redistribution within the budget limits, substantial organizational changes within the central government administration or significant socioeconomic consequences;
- b) The Ministry of Government Administration and Reform, should the preliminary assessment reveal that the matter may entail substantial administrative and/or organizational changes in central government administration;
- c) The Ministry of Local Government and Regional Development, should the preliminary assessment reveal that the matter may have substantial financial and/ or administrative consequences for counties and municipalities or substantial regional consequences;
- d) The Ministry of business and commerce, should the preliminary assessment reveal that the matter may have substantial consequences for the business sector.
- e) ministries that are heavily affected, should the preliminary assessment reveal that the matter may have substantial consequences in their respective areas.

4.3 Submission to the ministries after the study has been completed, but before circulation for general review

Should the consequence assessment reveal that a matter may have substantial financial, administrative or other significant consequences involving the spheres of responsibility of other ministries or otherwise affect these to any significant degree, the ministry concerned shall, before circulation for general review, submit it to them for an evaluation as to whether the consequences have been assessed in a satisfactory manner, cf. subsection 4.2.1. Matters that have substantial financial consequences shall always be submitted to the Ministry of Finance. Matters that have substantial financial or administrative consequences for municipalities or counties shall always be submitted to the Ministry of Local Government and Regional Development.

CHAPTER 5 GENERAL REVIEW

5.1 General

When the study of a matter has been completed, the ministry concerned or the subordinate agency shall circulate the matter for general review to all the public and private institutions and organizations affected, unless the matter qualifies for an exemption pursuant to subsection 5.4.

A matter shall also be sent to other ministries affected at the same time as it is circulated for review. In this connection, the ministry in question must consider whether the opinions of the ministries involved shall be sought as part of the general review process or in another appropriate manner.

The ministry that receives a matter for review is responsible for ensuring that the administratively subordinate agencies affected by the matter are consulted.

The body that circulates a matter for review should also consider using other ways to ensure participation on the part of those affected, e.g. through the use of information and communication technology, meetings, etc.

All matters that are circulated for review shall contain a list of consultative bodies and be dated on the same day as the matter is circulated.

5.2 Period for review

The period for review shall normally be three months and no less than six weeks. A shorter period can be set in accordance with subsection 1.3 of the Instructions.

5.3 Circulation of proposals from the European Commission

When deemed appropriate, the ministry concerned should also circulate proposals from the European Commission concerning new legislation that is relevant to the EEA

For matters circulated in accordance with the first paragraph, the ministry in question can stipulate a shorter response period than mentioned under subsection 5.2 when this is necessary as a result of the time schedule for the further processing of the proposal by EEA institutions.

5.4. Exemptions

Circulation for general review may be waived if this a. would not be practicable

b. would make the matter more difficult to implement or would reduce the effectiveness of the measure, or

c. must be regarded as being obviously unnecessary.

The decision to waive a general review may be made by the ministry concerned if one or more of the conditions set out in the first paragraph are fulfilled. If an exemption is granted, the responsible body should consider whether the opinions of other parties affected should be sought in another way.

The ministry's draft reports and propositions to the Storting are not to be circulated for general review, but are to be dealt with in accordance with the rules in chapter 6.

5.5 Repeating the review process

If the response of those consulted or other conditions lead to substantial changes in the matter concerned, the revised matter shall be sent to the bodies most affected by it for further review. The same applies should the estimates of financial, administrative or other significant consequences be substantially changed as a result of the review process.

CHAPTER 6 PROCESSING OF MINISTRY'S DRAFT REPORTS AND PROPOSITIONS TO THE STORTING

6.1 Submission requirement

The ministry's draft reports and propositions to the Storting shall be submitted to the Ministry of Finance and other ministries concerned for consideration before being presented to the Government. The ministries decide whether the draft should be submitted to subordinate agencies.

Should the draft report or proposition to the Storting have consequences for the finances and administration of counties and municipalities, or regional consequences, it shall be submitted to the Ministry of Local Government and Regional Development for consideration.

Submission in accordance with this subsection does not apply to budget propositions and reports to the Storting that are submitted as a matter of routine and which are of an informative nature.

The ministry's draft reports and propositions to the Storting are not circulated for general review, c.f. subsection 5.4 above.

6.2 Response period

The response period shall be at least three weeks unless a different deadline has been agreed upon by the ministries concerned.

6.3 Specific amounts or other concrete information in reports to the Storting

In the case of a report to the Storting, a separate assessment must be made as to whether specific amounts or other concrete information shall be included in the report in connection with the plans and proposals under consideration. All reports shall include a condition as to the pace at which new measures can be implemented, with reference to the annual budgets and the economic situation.

CHAPTER 7 LAWS AND REGULATIONS

7.1 Drawing up bills and regulations

Bills and regulations shall be drawn up on the basis of the Ministry of Justice's guidelines "Legislative techniques and legislative preparation".

7.2 Submission to the Ministry of Justice

Before the initiation of major legislative work or other legislative work that may raise the issue of legal structure, the matter shall be submitted to the Minister of Justice. Proposals for new legislation or regulations for Svalbard, Jan Mayen or Norwegian territory in the Antarctic shall always be submitted to the Ministry of Justice for general review. The same applies to proposals to expand existing legislation and regulations for these areas.

7.3 Legal review

A draft proposition to the Odelsting shall be submitted to the Legislation Department of the Ministry of Justice for review. This does not apply to legislative proposals concerning taxation.

The legal review takes place after submission to the ministries concerned in accordance with subsection 6.1. The period for review shall be at least two weeks. Deviations can only be made based on a special agreement with the Legislation Department.

7.4 Entry into force of laws and regulations

Laws and regulations of importance to private and public commercial activity shall normally come into force at the beginning of a new year. Separate grounds for exemption must be given in each matter.

7.5 Publication of regulations

On the same day that a regulation is adopted or confirmed, the text of the regulations and in some cases a separate manuscript for publication is to be sent for publication in the Norwegian Law Reports (The Lawdata Foundation) pursuant to sections 38 and 39 of the Public Administration Act of 10 February 1967.

7.6 Information requirement for new and amended laws and regulations

The body that is preparing new laws or regulations or amendments to existing laws or regulations shall also consider the need for information measures in connection with the changes in rules. Information measures must be planned partly on the basis of those who are users of the relevant regulations and amendments and the scope of the changes.